IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9464 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SAURIN RASIKLAL SHAH

Versus

IOC, THROUGH RAJIV SHASTRI OR HIS SUCCESSOR IN OFFICE

Appearance:

MR BB NAIK for Petitioner

MR GN SHAH for Respondent No. 1, 2 & 3

MR HR PRAJAPATI for Respondent No. 4

RULE SERVED for Respondent No. 5

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 18/07/2000

ORAL JUDGEMENT

The issues raised in this petition are now squarely covered by the order dated 21.6.2000 passed by this Court in Special Civil Application No. 4904/2000 with Civil Application No. 4312/2000.

2. Mr Naik, learned counsel for the petitioner has, however, vehemently submitted that this Court should not allow the respondents to run the retail outlets for petrol/diesel even on temporary basis without issuing an advertisement and has placed strong reliance on the decisions of the Apex Court in Ramana Dayaram Shetty vs. International Airport Authority of India, AIR 1979 SC 1628 and in Common Cause, A registered Society vs. Union of India, (1996) 6 SCC 530.

3. The contention cannot be accepted because in the aforesaid decisions, the Apex Court was not concerned with a situation where any contract was to be awarded on temporary basis. In view of the directions given by this Court in the aforesaid order dated 21.6.2000 in Special Civil Application No. 4904/2000, the respondent-Indian Oil Corporation cannot now award any contract for running the retail outlets for petrol/diesel, without issuing any public advertisement, for more than one year. The respondent-Indian Oil Corporation is, therefore, now required to carry out the directions contained in the aforesaid order also in respect of the retail outlet which is the subject matter of the present petition.

4. As regards the contention of Mr Naik that nothing prevented the Indian Oil Corporation from issuing public advertisement as soon as it started constructing the petrol pump, there is some substance in the submission, but there is no dispute about the fact that the retail outlet which is the subject matter of the present petition was constructed much prior to the issuance of Government of India circular dated 14.10.1999 and, therefore, the policy of running a retail outlet on COCO basis by engaging the contractor on temporary basis could not have been resorted to by the Indian Oil Corporation earlier. Now, that the Government of India has devised the policy of running the retail outlet on COCO basis as a temporary measure till a dealer is appointed on regular basis, the Indian Oil Corporation is bound to follow such policy and shall comply with the directions contained in this Court's order dated 21.6.2000.

5. Mr Naik has also contended that even if the retail outlet is to be run on COCO basis as a temporary measure, the petitioner was entitled to have his case considered and the respondents have acted illegally in not considering the petitioner's application.

It is clarified that dismissal of this petition does not preclude the respondents from considering the petitioner's application for being employed as a labour

contractor on temporary basis.

6. The petition is accordingly disposed of in terms of the directions contained in this Court's order dated 21.6.2000 in Special Civil Application No. 4904/2000 with Civil Application No. 4312/2000.

It is clarified that in respect of the retail outlets which are to be constructed and installed hereafter, the Indian Oil Corporation shall commence the process of selection as expeditiously as possible without waiting for completion of the construction and installation.

July 18, 2000 (M.S. Shah, J.)
sundar/-